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ATTORNEY GENERAL OF TEXAS

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Via e-mail (commissioner@tea.texas.gov)

The Honorable Mike Morath
Commissioner of Education
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas, 78701

Dear Commissioner Morath:

This letter provides informal guidance in response to your question concerning the extent to which cities and counties may restrict essential services allowed under the Governor's executive order issued in response to the novel coronavirus disease 2019 (COVID-19). See Executive Order GA-16 (Apr. 17, 2020) (hereafter GA-16). In particular, your question asks whether local shelter-in-place orders may prohibit teachers and staff from accessing public school buildings to perform essential services. We conclude that the Governor's order supersedes conflicting local orders that restrict essential services, including those performed by teachers and school staff.

On March 13, 2020, Governor Abbott declared a state of disaster in all Texas counties in response to the novel coronavirus disease 2019 (COVID-19), authorizing the use of all available State and local resources that are reasonably necessary to cope with the disaster. The Governor of the State Texas, Proc. of Mar. 13, 2020. On April 12, 2020, Governor Abbott extended his disaster declaration for all Texas counties. The Governor of the State of Texas, Proc. of Apr. 12, 2020. Subsequently, Governor Abbott issued an executive order to enable the safe, strategic reopening of select services in response to the COVID-19 disaster. GA-16 (Apr. 17, 2020). Importantly, this order provides that it "shall supersede any conflicting local order . . . to the extent that such a local order restricts essential services or reopened services allowed by [GA-16] or allows gatherings prohibited by [GA-16]." *Id.* at 4.

The Texas Disaster Act of 1975 (the Act) authorizes the Governor to declare a state of disaster if a disaster has occurred or the threat or occurrence of a disaster is imminent. TEX. GOV'T CODE § 418.014(a). The Act expressly permits the Governor

